

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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FEDERAL COMMUNICATIONS COMMISSION
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RM-8647

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In the Matter of)
)
Amendment of Section 22.949)
of the Commission's Rules To)
Provide for a Moratorium on)
Acceptance of "Unserved Area")
Applications Within the)
National Radio Quiet Zone)

**COMMENTS OF
THE CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION**

The Cellular Telecommunications Industry Association ("CTIA")¹ hereby submits its comments on a Petition for Rulemaking ("Petition") jointly filed by Easterbrooke Cellular Corporation ("Easterbrooke") and United States Cellular Corporation ("US Cellular") (referred to collectively as "Petitioners") in the above-captioned proceeding.²

¹ CTIA is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the association covers all Commercial Mobile Radio Service providers, including cellular, personal communications services, enhanced specialized mobile radio, and mobile satellite services.

² Petition for Rulemaking of Easterbrooke Cellular and United States Cellular Regarding Amendment of Section 22.949 of the Commission's Rules To Provide For a Moratorium On Acceptance of "Unserved Area" Cellular Applications Within The National Radio Quiet Zone, filed May 4, 1995. Petitioners also requested a stay of the acceptance of "unserved area" applications within the area that is the subject of this proceeding. The FCC has denied Petitioner's

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In 1958, a radio "Quiet Zone" was established to prevent or minimize possible interference to the Naval Radio Research Observatory ("NRRO") and the National Radio Astronomy Observatory ("NRAO") located at Green Bank, West Virginia. Easterbrooke and US Cellular are among several cellular carriers operating cellular systems in markets that overlap the area comprising the "Quiet Zone." As the Petitioners explain in greater detail, the "Quiet Zone" emission standards create an absolute bar to the construction of cellular facilities within major portions of the Quiet Zone, as well as imposing severe restrictions on other facilities.³

The Petitioners ask the Commission to amend §22.949⁴ of its rules to exempt the portions of RSAs located within the Quiet Zone from the cellular "unserved areas" requirement of the Commission's rules.⁵ Petitioners recommend that the Commission amend §22.949 by adding a new section exempting

Request for a Stay. CTIA submits these comments in support of the Petitioners' Rulemaking Petition.

³ Petition at 4.

⁴ 47 C.F.R. §22.949 sets forth the two-step process for licensing unserved areas in cellular markets for which the five-year build out period has elapsed. Failure to adhere to the licensing requirements could result in revocation of the portion of the license for which an area has not complied with the five year build out period. See id.

⁵ Petition at 1.

the filing of unserved area applications for areas which encompass, in whole or in part, the Quiet Zone. During their license periods, licensees of those areas will be permitted to file applications to serve areas within the Quiet Zone in accordance with the rules applicable to system expansion during the five year build-out period.⁶

CTIA fully supports the Petitioners' request. Since the "Quiet Zone" requirements restrict the cellular licensees' ability to deploy wireless telecommunications services within the zone, there are "unserved" areas in the affected markets. Unless the Commission modifies its "unserved area" rules, the possibility exists that applications for unserved areas will be filed, even though neither the incumbent licensee nor any applicant will be able to construct facilities within these areas.

As the Petitioners explain, a rulemaking proceeding is an appropriate vehicle to address this unique anomaly in the Commission's cellular rules. Because the "Quiet Zone" requirements that bar incumbent cellular providers from building out their facilities in or around the Quiet Zone also bar any other licensee,⁷ the most equitable solution

⁶ Id. at 9.

⁷ Section 22.369 of the FCC's rules sets forth requirements of build out in and around areas designated as Quiet Zones. Section 22.369(a) requires that the NRAO or NRRO be notified of any proposed Part 22 base stations within the Quiet Zone and provides a comment period for

is for the Commission to not accept license applications for unserved areas for the Quiet Zone area until the Quiet Zone restrictions are relaxed or new technological techniques are developed to allow greater coverage within the Quiet Zone and the incumbent licensees have been afforded a reasonable opportunity to provide additional coverage.

The FCC needs to act without delay as the deadline for unserved area applications to be filed in the RSA most affected by Quiet Zone considerations is fast approaching.⁸ Therefore, CTIA fully supports the Petitioners' request and asks that the Commission act on Easterbrooke and U.S. Cellular's Petition without delay.

Respectfully submitted,


Brenda K. Pennington
Staff Counsel

Michael Altschul
Vice President and
General Counsel

Randall S. Coleman
Vice President,
Regulatory Policy & Law

**CELLULAR TELECOMMUNICATIONS
INDUSTRY ASSOCIATION**
1250 Connecticut Avenue, N.W.
Suite 200
Washington, D.C. 20036

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responding to any such notifications. See 47 C.F.R. §22.369. The Petitioners aver that, in practice, the FCC always defers to the NRAO's position; any cell site within the Quiet Zone not approved by the NRAO is generally not licensed. See Petition at 3.

⁸ Id. at 2.

CERTIFICATE OF SERVICE

I, Brenda K. Pennington, hereby certify that on this 23rd day of June, 1995 copies of the foregoing Comments of the Cellular Telecommunications Industry Association were served by hand delivery upon the following parties:

Mr. William Caton
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

International Transcript Service
1919 M Street, N.W., Room 246
Washington, D.C. 20554


Brenda K. Pennington